

Message Text

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ORIGIN COME-00

INFO OCT-01 EUR-12 ISO-00 EB-08 AGRE-00 AID-05 CEA-01
CIAE-00 FRB-01 INR-07 NSAE-00 SP-02 STR-04
TRSE-00 LAB-04 SIL-01 OMB-01 SS-15 NSC-05 L-03
/070 R

DRAFTED BY COM/ NBS/DEDERLY
APPROVED BY STATE/EUR/RPE:EACASEY
COM/OTP/IND/HBRATT
COM/OTP/IND/RMITCHELL
STATE/EUR/RPE/RBRESSLER (DRAFT)
USDA/FAS/HFAYANS
-----302127Z 082783 /62
R 300145Z APR 77
FM SECSTATE WASHDC
TO USMISSION EC BRUSSELS

UNCLAS STATE 097924

E.O. 11652: N/A

TAGS: EIND, EEC, ETRC

SUBJECT: UNITED STATES COMMENTS ON "PROPOSAL FOR A COUNCIL
DIRECTIVE (EEC) ON THE APPROXIMATION OF THE LAWS OF THE
MEMBER STATES RELATING TO THE RANGES OF NOMINAL QUANTITIES
PERMITTED FOR CERTAIN PREPACKAGED PRODUCTS."

REF: FAURE, MURPHY, EDGERLY MEETING, APRIL 1 IN BRUSSELS

1. UPON CONSIDERATION BY USG EXPERTS AND WITH TECHNICAL
INPUT FROM THE NATIONAL CANNERS ASSOCIATION AND THE CAN
MANUFACTURERS INSTITUTE TWO GENERAL CONCERNS REGARDING THE
SUBJECT DIRECTIVE EMERGE: (A) THAT VIGOROUS ENFORCEMENT OF
THE PROPOSED DIRECTIVE, INCLUDING PROHIBITION OF NONLISTED
PACKAGE QUANTITIES IN ANNEXES I, II, AND III, MIGHT PRESENT
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TRADE BARRIERS TO NON-EC NATIONS AFTER 1 JANUARY 1985; AND,
(B) THAT A TEST METHOD IS NOT PROVIDED (OTHER THAN SELF-
CERTIFICATION) TO DETERMINE REGULATORY COMPLIANCE TO CON-
TAINER CAPACITIES LISTED ANNEXES II AND III. THE UNITED
STATES FEELS THAT IF A MEMBER STATE ALLOWS NON-CONFORMING
PACKAGES INTO ITS MARKETS AT THE TIME OF NOTIFICATION OF
ACCEPTANCE OF THE DIRECTIVE, THEN SUCH PACKAGES SHOULD BE

ALLOWED WITHOUT REFERENCE TO A CUT-OFF DATE FOR SUCH EX-

CLUSION. WE ALSO FEEL THAT TEST METHODS (COUNCIL DIRECTIVE 76/211/EEC) REFERENCED IN THE PROPOSED DIRECTIVE RELATE TO METHODS FOR THE DETERMINATION OF THE NET QUANTITY OF CONTENTS OF PACKAGES AND DO NOT RELATE TO THE DETERMINATION OF CONTAINER CAPACITIES LISTED IN ANNEXES II AND III. THE U.S. FOOD AND DRUG ADMINISTRATION (FDA) HAS PUBLISHED A SUITABLE TEST PROCEDURE FOR WATER DETERMINATION OF CONTAINERS CAPACITIES. THIS MIGHT SERVE AS AN EXAMPLE FOR THE EC, AND IS AVAILABLE IN THE CODE OF FEDERAL REGULATIONS (21 CFR 10.6) (A COPY IS BEING AIR POUCHED TO MURPHY).

2. SPECIFIC CONCERNS FOR WHICH THE UNITED STATES WOULD LIKE TO REQUEST EC CONSIDERATION ARE REFLECTED IN THE FOLLOWING RECOMMENDATIONS:

A. THAT THE PROPOSED DIRECTIVE BE AMENDED BY DELETING ANY REFERENCE TO A DATE AFTER WHICH MEMBER STATES MAY PROHIBIT OR RESTRICT PACKAGES WHOSE NOMINAL QUANTITY OR CAPACITY HAS A VALUE NOT SHOWN IN THE DIRECTIVE. AS INDICATED EARLIER, WE FEEL THAT IF A MEMBER STATE ALLOWS NON-CONFORMING PACKAGES INTO ITS MARKETS AT THE TIME OF NOTIFICATION OF A ACCEPTANCE OF THE DIRECTIVE, THEN SUCH PACKAGES SHOULD BE ALLOWED WITHOUT REFERENCE TO A CUT-OFF DATE FOR SUCH EXCLUSION.

B. THAT TEST METHODS (INCLUDING REASONABLE FILL TOLERANCE) FOR DETERMINATION OF CONTAINER CAPACITIES LISTED IN ANNEXES II AND III BE DEVELOPED FOR USE BY MEMBER STATES IN VERIFYING CONTAINER CAPACITIES UNDER FIELD TEST CONDITIONS. THE DIRECTIVE REQUIRES THAT CONTAINER CAPACITIES BE INDICATED BY MANUFACTURERS EITHER BY REFERENCE TO A CEN OR ISO STANDARD OR BY SHOWING CAPACITIES IN CENTILITRES ON THE CONTAINER. THUS, WHILE MEMBER STATES MAY BE ABLE TO VERIFY THE CORRECT AMOUNT OF PRODUCT (NET WEIGHT OR VOLUME) IN A CONTAINER, THE TEST PROCEDURES OUTLINED IN COUNCIL DIRECTIVE 76/211/EEC ARE NOT INTENDED TO VERIFY CONTAINER CAPACITIES INDEPENDENT OF PRODUCT. THE RESULT IS THAT SELF-CERTIFICATION OF CONTAINER CAPACITIES BY THE MANUFACTURER IS THE ONLY PRESENT METHOD FOR ENFORCING REQUIREMENTS.

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C. THAT ARTICLE 1 BE MODIFIED BY THE ADDITION OF THE FOLLOWING CLAUSE TO THE LAST SENTENCE, TO READ: "... OR PRODUCTS INTENDED FOR INSTITUTIONAL USE NOT SUBJECT TO RETAIL SALE." THIS WOULD CLARIFY ARTICLE 1 BY INDICATING

THAT PACKAGES WHICH ARE USED IN INSTITUTIONS SUCH AS HOS-

PITALS, HOTELS, RESTAURANTS, ETC., OR THOSE WHICH ARE MARKET PROMOTIONAL SAMPLES, AND NOT INTENDED FOR RETAIL SALE TO THE GENERAL PUBLIC, WOULD BE EXEMPTED FROM COVERAGE UNDER THE DIRECTIVE.

D. THAT THE SECOND PARAGRAPH OF ARTICLE 3 BE AMENDED TO READ: "IN THE CASES REFERRED TO IN ARTICLE 2 (2) AND (3), THE CONTAINERS SHALL ALSO INDICATE ON THE CONTAINER ITSELF, OR ATTACHED LABEL, THEIR NOMINAL FULLY-LADEN CAPACITY IN SUCH A WAY AS TO AVOID ANY CONFUSION WITH THE PREVIOUS INDICATION: --EITHER BY REFERRING TO THE CORRESPONDING CEN OR ISO STANDARD, --OR BY SHOWING THEIR CAPACITY IN CENTILITRES WITHOUT THE SYMBOL CL. INTERPRETING ARTICLE 3 AS PRESENTLY WRITTEN TO REQUIRE EMBOSsing OF THE INFORMATION ON THE CAN WOULD BE COSTLY TO NON-EC NATIONS

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AND UNNECESSARY.

E. THAT SECTION 1.10 BE AMENDED TO PROVIDE FOR A QUANTITY OF 1500 GRAMS WHICH IS THE CLOSEST METRIC EQUIVALENT TO THE 3 POUND CAN OF COFFEE--A COMMON ITEM OF TRADE IN THE UNITED STATES--THAT HAS ENJOYED WIDE CONSUMER ACCEPTANCE. MANY CONSUMERS FIND THIS SIZE SUTIALBE FOR THEIR CONSUMPTION PATTERNS AND THEY ALSO FIND IT TO BE THE MOST ECONOMICAL SIZE.

F. THAT SECTION 1.1.1. BE MODIFIED TO INCLUDE THESE ADDITIONAL CAN SIZES WHICH ARE-B ALSO CONTAINED IN ISO STANDARDS.

CAPACITY	USA
(ML.)	DIMENSIONS

247	307X201.25
446	211X508
300X408	
307X309	

492	300X415
303X406	

L455	404X700
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THE 247 ML. CAPACITY SHO;LD BE ADDED TO SECTION 1.1.1. "FOR PINEAPPLE." THE 446 ML. CAPACITY IS MANUFACTURED AND USED IN THE EC MEMBER STATES IN THREE CAN SIZES. THE 446 ML. CAPACITY EXISTS IN THE USA IN TWO CAN SIZES, 300X408

AND 307X309. THE ADDITION OF THE 446 ML. CAPACITY TO SECTION 1.1.1. WOULD GIVE SANCTION TO ALL THREE CAN SIZES. THE 303X406 IS THE NUMBER ONE VEGETABLE CAN IN THE USA AND IS IMPORTANTLY USED FOR CANNED FRUITS AS WELL. THE 492 UNCLASSIFIED

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ML. CAPACITY IS LISTED IN SECTION 1.1.1. FOR SOUPS ONLY. THE 492 ML. CAPACITY SHOULD BE TRANSFERRED TO THE GENERAL LIST FOR UNRESTRICTED USE. 20 MILLION DOLLARS WORTH OF VEGETABLES WERE EXPORTED IN THIS SIZE. THE 404X700 IS BEST KNOWN AS THE 46 OZ. JUICE CAN. IT IS IMPORTANTLY USED IN THE USA FOR PACKS OF CANNED VEGETABLES, CANNED SOUPS, AND CANNED PORK-AND-BEANS. THE 1455 ML. CAPACITY SHOULD BE ADDED TO SECTION 1.1.1. FOR GENERAL USE.

G. THAT CONSIDERATION BE GIVEN TO INCLUDING TWO ADDITIONAL SIZES OF AEROSOL CONTAINERS: 525 ML. PRODUCT VOLUME (405 ML. CONTAINER CAPACITY); AND 404 ML. PRODUCT VOLUME (572 ML. CONTAINER CAPACITY).

3. MISSION IS REQUESTED TO COMMUNICATE THESE POSITIONS TO APPROPRIATE EC OFFICIALS. DURING THE APRIL 1 MEETING WITH EDGERLY AND MURPHY, FAURE POINTED OUT THAT UNITED STATES COMMENTS AND PROPOSALS RELATIVE TO THE PROPOSED DIRECTIVE WOULD BE CONSIDERED PRIOR TO THE JUNE MEETING OF THE EC COUNCIL. MISSION SHOULD ATTEMPT TO ENSURE THAT RESPONSES ARE RECEIVED ON EACH OF THE RECOMMENDATIONS CONTAINED IN THIS CABLE.
CHRISTOPHER

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Message Attributes

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Channel Indicators: n/a
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Original Handling Restrictions: n/a
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Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
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Secure: OPEN
Status: NATIVE
Subject: UNITED STATES COMMENTS ON "PROPOSAL FOR A COUNCIL DIRECTIVE (EEC) ON THE APPROXIMATION OF THE LAWS OF THE MEMBER STATES RELATING TO THE RANGES OF NOMINAL QUANTITIES"
TAGS: EIND, ETRD, US, EEC
To: EC BRUSSELS
Type: TE
vdkgwkey: odb://SAS/SAS.dbo.SAS_Docs/8edd309b-c288-dd11-92da-001cc4696bcc
Review Markings:
Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
22 May 2009
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009